IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

WP(C).No. 32723 of 2007(U)

AGAINST THE ORDER IN IN OS.---/2007 IN
CF.10001/2007 of PRINCIPAL SUB COURT,KOLLAM
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PETITIONER:

M/S.OCEANIC FISHERIES (INDIA) LTD
SAKTHIKULANGARA, KOLLAM THROUGH ITS DIRECTOR,
TERRY RICHARD, AGED 39 YEARS,S/O.ANTONY RICHARD
RESIDING AT HOUSE NO.11/2
NEAR CUSTIMS ROAD, FORT, KOLLAM.

BY ADV. SRI.C.RAJENDRAN

RESPONDENT:

JITH PHILIP (PROPRIETOR)
HIMA SEA FOOD EXPORTS
SIDORES, SAKTHIKULANGARA, KOLLAM.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

M.N.KRISHNAN, J

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W.P.(C) No.32723 OF 2007

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Dated this the 5th day of November 2007

JUDGMENT

This writ petition is filed against the order of the Prl.Sub Court, Kollam in C.F.No.10001 of 2007 in O.S.(unnumbered) of 2007. The suit is one for realisation of the arrears of rent on the basis of an agreement. The court below without numbering the plaint has directed the plaintiffs to produce the original of the rent agreement within 3 days. It is submitted that though the plaintiffs are having the document, it is in the head office and it has been mis-placed and some time may be required for the purpose of tracing it out. It is true that under Order VII Rule 14 of the Code of Civil Procedure, where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the documents and a copy thereof, to be filed with the plaint. So, Order VII Rule 14 mandates that when a suit is filed on the basis of a document and that document is in the custody of the plaintiff, the plaintiff is bound to produce the original of

the document and has to be filed. When the document is not in the possession of the plaintiff he has to state where it is. As per Order 14 Rule 3 of C.P.C., when such a document is produced, it shall not be admitted in evidence at a later stage without the leave of the court. Order VII Rule 14 envisages a situation of production of document at the inception itself and at the stage of evidence when such a document is tendered, the court has to record its reason for admitting the document in evidence. Order VII Rule 14 does not contemplate a situation rejecting the plaint or returning the plaint for non-production of document. I, therefore, direct the court below to receive the plaint, number the same and proceed in accordance with law.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-